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COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT

PLANNING COMMISSION

2-1

MEETING DATE May 26, 2005	CONTACT/PHONE Martha Neder, AICP, Planner 805-781-4576	APPLICANT GFS Cambria, LLC	FILE NO. DRC2004-00176
SUBJECT Hearing to consider a request by GFS Cambria, LLC for a Development Plan/Coastal Development Permit to allow the closure of a mobile home park pursuant to Section 23.08.164g of the Coastal Zone Land Use Ordinance. The project will not result in disturbance on the 2.4-acre parcel. The proposed project is within the Office/Professional and Residential Multi-Family land use categories and is located at 1460 Main Street in the community of Cambria. The site is in the North Coast planning area.			
RECOMMENDED ACTION Approve Development Plan/Coastal Development Permit DRC2004-00176 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION A Class 1 Categorical Exemption was issued on April 25, 2005 (ED05-491)			
LAND USE CATEGORY Office/Professional, Residential Multi-Family, Recreation	COMBINING DESIGNATION AS/CBD/FH/LCP/SRV	ASSESSOR PARCEL NUMBER 013-251-008	SUPERVISOR DISTRICT(S) 2
PLANNING AREA STANDARDS: None applicable			
LAND USE ORDINANCE STANDARDS: 23.08.164 – Mobilehome Parks			
EXISTING USES: Mobilehome Park			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Commercial Retail <i>East:</i> Office/Professional <i>South:</i> Residential Multi-Family <i>West:</i> Public Facilities			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: North Coast Advisory Council, Public Works, Ag Commissioner, Cambria Community Services District, Cal Trans, California Coastal Commission			
TOPOGRAPHY: Nearly level to steeply sloping		VEGETATION: Ruderal, ornamental landscaping, riparian	
PROPOSED SERVICES: Water supply: CCSD Sewage Disposal: CCSD Fire Protection: Cambria Fire		ACCEPTANCE DATE: April 25, 2005	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

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#### PROJECT DESCRIPTION

This Development Plan application is to authorize the closure of the Rod and Reel mobilehome park. The current proposal is for the mobilehomes to remain on the site in a vacant condition with a caretaker residing in one mobilehome for security purposes. This application does not include a request to authorize a future use or development of the property. Any proposed development or new use on the property would require further permit approval.

There is some disagreement as whether a Development Plan is required at this time since the applicant does not currently have plans for a future use or development. County staff maintains that although the mobilehome park is not being replaced with a new use, the site has ceased operation as a mobilehome park as it no longer contains tenants. Initial steps have been taken to close the mobilehome park and convert it to a new use. Therefore, a Development Plan is required to authorize the closure.

In order to close the park pursuant to State requirements, the utilities would need to be capped and the mobilehomes removed. The applicant plans to submit for a permit to develop the property within the next year. In order to minimize disturbance of the site, staff recommends this application be to authorize closure of the park but that all physical improvements be deferred to a subsequent permit approval so that impacts to the site can be addressed at one time.

#### PROJECT HISTORY

The Saturday, August 28, 2004 edition of the Telegram Tribune contained an article regarding a tenant moving out of the Rod and Reel Trailer Park due to its closure. On September 2, 2004, County staff wrote the owner's of the Rod and Reel Trailer Park informing them of Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.164g which sets forth criteria for conversion of mobilehome parks to other uses. The letter informed the owners that in the absence of an approved Development Plan, asking or requiring residents to move from a mobilehome park for the purpose of converting it to another use is a violation of the county ordinance.

In response to the County's letter, the property owner's representative explained that the owners have been acquiring the coaches on the property since 1977 and then renting them out on a month to month basis (typically residents own their coaches in mobilehome parks and simply rent the space on which they are located). The letter also stated that nearly all of the tenants have voluntarily vacated the property over the last year. The owners asked that the County determine the property does not constitute a mobile home park within the meaning of the CZLUO because of their long-term ownership of the property, their deliberate acquisition of coaches, and that there was no intention to develop the property immediately.

The County followed with a response that as recently as February of 2003, three spaces were rented for mobile home units, meeting the State definition of a mobilehome park. Since the property qualified as a mobilehome park, a Development Plan application must be filed with the county prior to any action to convert the park. Conversion includes requiring tenants to move, and removing the units, even if no other use is planned. Therefore, staff has determined that as recently as February 2003 the site was used as a mobilehome park and the required application should have been filed prior to closure.

Again the property owners disagreed with the County's position because no mobilehome owner was required to sell their coach and no mobilehome owner was required to vacate from the property. Tenants either voluntarily sold their coaches, moved, or passed away.

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The property was sold and the new owner submitted this application for a Development Plan to close the mobilehome park solely in response to the Department's assertion that the previous property owner was in violation of CZLUO Section 23.08.164g. The property owner does not accept the County's conclusion, and the application was submitted under protest.

**COASTAL ZONE LAND USE ORDINANCE STANDARDS:**

***Section 23.04.092 Affordable Housing Required in the Coastal Zone***

This section requires the replacement of existing dwelling units occupied by low and moderate income persons. Currently, there is one residence and eight mobile homes located on the property, each containing one dwelling unit. Therefore, there are a total of nine dwelling units in nine structures. However, none of the units are currently occupied

The Board of Supervisors has determined that this section does not apply to the demolition or conversion of ten or fewer dwelling units in two or more structures to condominium, cooperative, or similar form of ownership. However, this section does apply the demolition or conversion of one or more dwellings to a non-residential use which is not "coastal dependent". The currently proposed project does not include a request to authorize a future use or development of the property. Applicability of this section cannot be determined without knowing the proposed future use. Therefore, applicability of this section would need to be addressed in the subsequent development application.

***Section 23.07.120 Local Coastal Program Area:***

The project site is located within the California Coastal Zone as determined by the California Coastal Act of 1976 and is subject to the provisions of the Local Coastal Program.

***Section 23.08.164g Mobilehome Parks:***

**Impact Report**

Prior to conversion of a mobilehome park to another use or prior to closure of a mobile home park or cessation of use of the land as a mobilehome park, the entity proposing the change shall file a report on the impact of the "conversion, closure, or cessation of use on displaced mobilehome park residents." (CZLUO Section 23.08.164g and Government Code Section 65863.7). The impact report is also required to address the availability of adequate replacement housing in mobilehome parks and relocation parks. Information provided by the applicant shows that there were no residents residing in the mobilehome park at the date the application was filed. Since there were no residents in the park, no one was displaced. Further, at no time was the Planning Department contacted by residents concerning the closure of the park or the termination of tenancy. There is no evidence to refute the applicant's and prior owner's claim that each tenant sold or vacated their mobilehome voluntarily, under their own free will. This information demonstrates that there was no impact to displaced residents and that there was adequate replacement housing available.

**Notice**

As required by Government Code Section 65863.8, at least 30 days before the public hearing on the Development Plan, the Planning Department shall notify the applicant of the provisions of Section 798.56 of the Civil Code. This section requires the applicant to notify residents and mobilehome owners of the mobilehome park of the proposed change in use. The last tenant vacated the property on November 15, 2004 and the remaining mobilehomes are owned by the applicant. Therefore, there are no residents or mobilehome owners to notify of the closure.

2-4

A tenant who resides without a rental agreement will remain on the property for security purposes. This tenant is not required to be notified of the local hearing pursuant to Civil Code 798.56 since they are not considered a "homeowner". A "homeowner" is defined by Civil Code 798.9 as a person who has tenancy in a mobilehome park under a rental agreement. However, this tenant has been notified of this Development Plan application by virtue of the standard public notice provided to occupants within 100 feet of the development application.

COASTAL PLAN POLICIES: This project is in compliance with the Coastal Plan Policies. The most relevant policies are discussed below.

***Environmentally Sensitive Habitats:***

*Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats: The proposed project is consistent with this policy because it will not significantly disrupt the habitat, and there is no site disturbance.*

*Policy 2: Permit Requirement: The proposed project is consistent with this policy because there will be no significant impact on sensitive habitats, and the proposed project is consistent with the biological continuance of the habitat.*

*Policy 3: Habitat Restoration: The proposed project is consistent with this policy because there is no site disturbance.*

*Policy 20: Coastal Streams and Riparian Vegetation: The proposed project is consistent with this policy because there is no site disturbance associated with the project and it will not impact the natural hydrological system and ecological function of the coastal stream.*

*Policy 26: Riparian Vegetation: The proposed project is consistent with this policy because it does not involve the cutting or alteration of vegetation*

***Archeology***

*Policy 1: Protection of Archaeological Resources: The proposed project is consistent with this policy because there is no site disturbance associated with the project and it will not impact any known archaeological resources.*

***Does the project meet applicable Coastal Plan Policies:*** Yes, as conditioned

COMMUNITY ADVISORY GROUP COMMENTS: "Any approval to close trailer park does not imply approval on plans for future use."

**AGENCY REVIEW:**

Public Works- No concerns

Ag Commissioner- No response received

Cambria Community Services District – No objection to closure of mobilehome park

Cal Trans – No response received

California Coastal Commission – No response received

**LEGAL LOT STATUS:**

The lot was legally created by a recorded map at a time when that was a legal method of creating lots.

Staff report prepared by Martha Neder and reviewed by Kami Griffin

## FINDINGS - EXHIBIT A

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### Environmental Determination

- A. The project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 because the project involves the operation of existing private structures with no expansion of use.

### Development Plan

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the mobilehome park closure does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the closure of the existing mobilhome park will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Main Street, an arterial road, and will not include additional traffic.

### Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

### Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because no disturbance will occur.
- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because no disturbance will occur.
- J. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because no disturbance will occur.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because no disturbance will occur.

2-6

- L. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- M. The proposed use will not significantly disrupt the habitat.

Archaeological Sensitive Area

- N. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because there will be no disturbance.
- O. The site design and development cannot be feasibly changed to avoid intrusion into or disturbance of archaeological resources because as proposed there will be no disturbance.

## EXHIBIT B - CONDITIONS OF APPROVAL

2-7

### Approved Development

1. This approval authorizes the closure of the Rod and Reel mobilehome park.

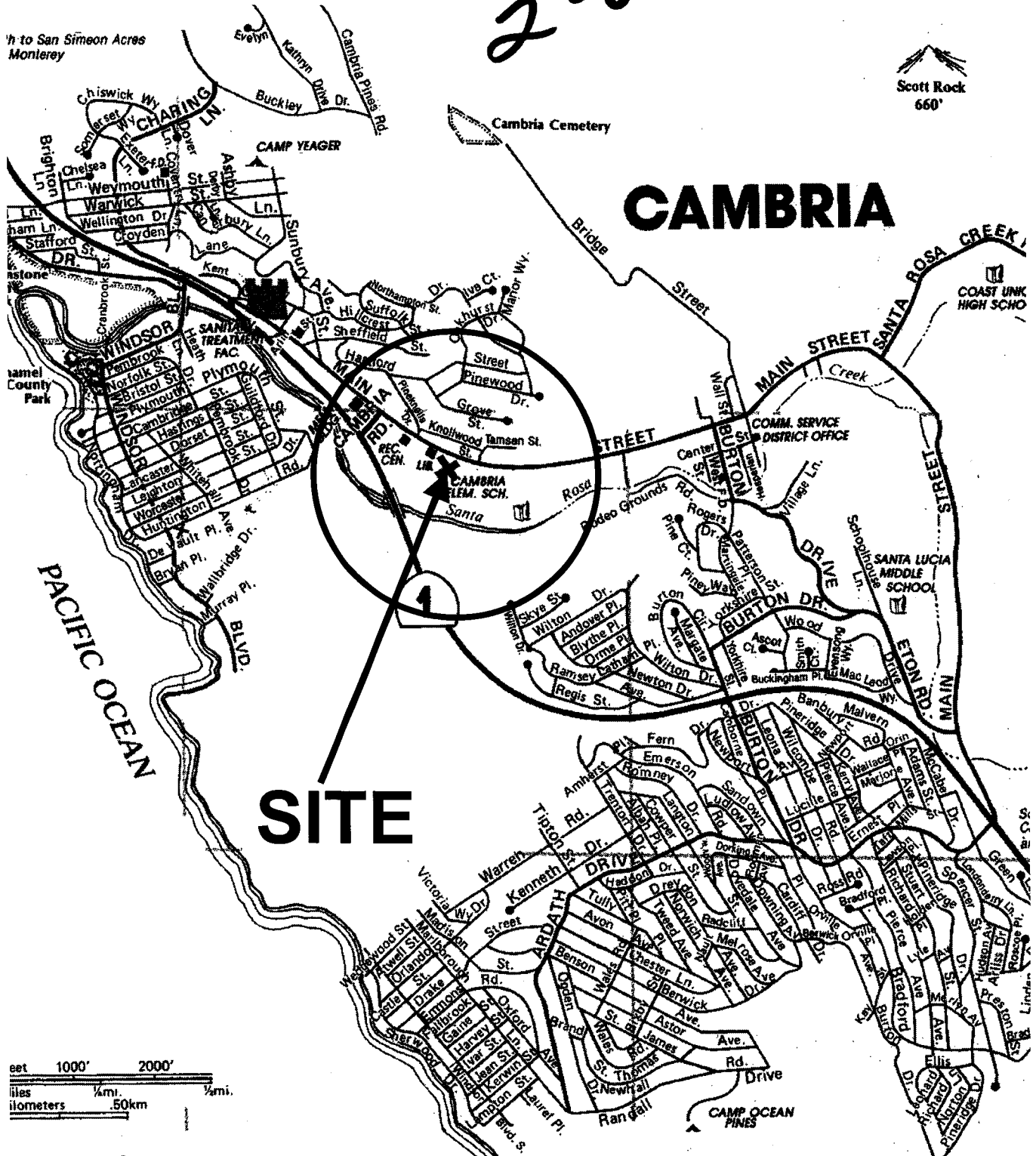
### Conditions required to be completed within one year of authorization

2. **Within one year of authorization for closure of the mobilehome park**, the applicant shall apply for the appropriate development permits for the physical improvements required for the closure of the park and for future use of the property.

### On-going conditions of approval (valid for the life of the project)

3. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
4. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

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**PROJECT**

Conditional Use Permit  
GFS Cambria LLC DRC2004-00176



**EXHIBIT**

Vicinity Map



# SITE

ASFA

## PROJECT

Conditional Use Permit  
GFS Cambria LLC DRC2004-00176

**EXHIBIT**

## Land Use Category Map



Conditional Use Permit  
GFS Cambria LLC DRC2004-00176



## Site Plan

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**PROJECT**

Conditional Use Permit  
GFS Cambria LLC DRC2004-00176



**EXHIBIT**

Aerial Photo

2.12

*Attachment 1*  
Tenant Information

**J.H. EDWARDS COMPANY A real property concern**

From the desk of

Jeff Edwards

2-13

**Fax  
Transmission**

- ☐ Please call to confirm receipt
- ☐ Please respond by return fax
- ☐ Call only if transmission is incomplete

**Date: April 15, 2005**

**To: Tammy L. Seale**

**Subject: DRC2004-00176 GFSCambria,LLC**

**Fax number: (805) 781-1242**

**From: Jeff Edwards**

**Our phone: (805) 528-1567**

**Our fax: (805) 528-4473**

**# of pages including cover page: 3**

Dear Tammy, thank you for your assistance regarding the above referenced Development Plan application. Attached please find the completed matrix as requested. The two (2) footnotes on the matrix help explain the situation regarding space number 16 which was the only coach not owned by our predecessor, Ray and Carolyn Connelly. For purposes of our current discussion I will assume the application date is February 16, 2005. For your information, our "due diligence" with respect to the purchase of the property began on, or about July, 2004. As you may know, the escrow closed in January, 2005, transferring the property to GFS Cambria, LLC. All tenants were on a month-to-month tenancy and vacated voluntarily with the last tenant in space number 3 leaving on November 15, 2004 (see letter included). The gentleman (Steve Cole) staying in space number 16 simply keeps an eye on things for us. No rent is paid by him and we do not pay him either. Please do not hesitate to contact me with any questions you may have. I will assume that the subject application will be heard by the County Planning Commission on May 12, 2005.

c- Steve Miller  
Jim Buttery

attachments

DRC2004-00176 GFS Cambria  
Development Plan/ Coastal Development Permit Application to close Mobile Home Park

Outstanding information as of April 12, 2005

Mobile Homes Currently at Rod Reel Trailer Park

Unit	Occupants at time of application	Name(s) of last occupant(s)	Tenure	Status of Last Occupant (Renter/Owner)	Date Acquired by Ray and Carolyn Connelly	Owner at time of application
1	Vacant	Kanter/ Lindsay	11/03- 7/04	Renter	28-Feb-03	GFS Cambria LLC
3	Vacant	Green	6/03- 11/04	Renter	9-Feb-03	GFS Cambria LLC
7	Vacant	Norried	6/04- 9/04	Renter	1988	GFS Cambria LLC
11	Vacant	As of 4/1/04		Renter	1998	GFS Cambria LLC
12	Vacant	Castaneda	3/03- 6/04	Renter	1994	GFS Cambria LLC
13	Vacant	As of 4/1/04		Renter	1980	GFS Cambria LLC
16	Steve Cole *	Goldie Waren **	1/88- 10/04	Owner	15-Oct-04	GFS Cambria LLC
17	Vacant	Safonov	2/00- 10/04	Renter	2002	GFS Cambria LLC

2.14

\* Caretaker present since 12/04. No rental or lease agreement.

\*\* Goldie Waren and Jim Tucker owned coach. Purchased by GFS Cambria, LLC 10/15/04.

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November 18, 2004

Susan M. Green  
4337 Bridge St.  
Cambria, CA 93428

Ray and Carolyn Connelly  
c/o Manor Realty  
728 Main Street  
Cambria, CA 93428

Dear Mr. and Mrs. Connelly:

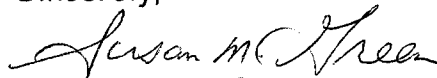
As you know, I occupied space #3 on the property located at 1460 Main Street in Cambria. My son and I had lived at that address since mid June of ~~the year~~ <sup>2003</sup>. While our stay was brief, we did enjoy the time we lived there.

A better living situation became available, so we decided to take advantage of the opportunity. We certainly appreciate your hospitality and wish you the best in the future.

We are now happy to be moved to our new home and as you know the move was completed on November 15, 2004. It was somewhat strange being the last two people to reside on the property and it was a little lonely during the last couple of weeks.

In closing, I wish to reiterate my thanks and please return my security deposit at your earliest opportunity to the address above.

Sincerely,



Susan M. Green

2-16

*Attachment 2*  
Correspondence





2-17  
SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP  
DIRECTOR

September 2, 2004

Mr. Ray Connelly  
Connelly's Rod and Reel  
1460 Main St.  
Cambria, Ca. 93428

Dear Mr. Connelly:

I am writing in reference to an article in the Saturday, August 28th, edition of the Telegram Tribune. It is our understanding that the longtime use of your property is some mixture of mobile homes and recreational vehicles, used as permanent residences. According to information you provided for our mobile home park survey in 1991, the park was approximately 40 years old at that time and 22 spaces were occupied. The recent newspaper article gave the impression that you are in the process of changing the use of your property and residents are being asked to move.

The San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.08.164g, sets forth criteria for conversion of mobile home parks to other uses. If the property qualifies as a mobile home park, a Development Plan application must be filed with the county prior to any action to convert the park. Conversion includes requiring the tenants to move, and removing the units, even if no other use is planned.

We want to make you aware that, in the absence of an approved Development Plan, asking or requiring residents to move from a mobile home park for the purpose of converting it to another use is a violation of the county ordinance. We recommend that you ask us to evaluate the park and your proposed project to determine if a Development Plan is required at this time. Failure to comply with the mobile home park conversion standards will significantly complicate any future application for other uses on the property. In addition, there are also State laws regulating conversion of mobile home parks. You may want to contact your attorney regarding compliance with State laws.

If you have any questions, please call me at 781-5154.

Sincerely,

John Busselle, Senior Planner  
Housing and Economic Development Section

C: Rubin Mireles, State Department of Housing and Community Development  
Art Trinidad, Department of Planning and Building, Code Enforcement Division

2-18

Connelly's Rod & Reel  
1460 Main St.  
Cambria, CA 93428  
Mailing address  
846 Anchor  
Morro Bay, CA 93442

RECEIVED  
OCT 1 2004  
Planning & Bldg

9/30/04

John Busselle  
Dept. of Planning & Building  
Housing & Economic Development Section  
County Government Center  
San Luis Obispo, CA 93408

Dear Mr. Busselle:

We have only recently received your letter dated 9/2/04. We no longer live at the Cambria property. Please make note of our mailing address.

The newspaper article from 8/28/04 was in error on many of its statements. I'll not bother you to those fallacies at this time.

We are NOT doing any conversions on our property. We are SELLING the property.

If you have any questions, you can call me at 772-2302

Sincerely,

Ray Connelly



CC: Rubin Mireles, State Dept. of Housing & Community Development  
Art Trinidad, Code Enforcement Division

ANDRE,  
MORRIS  
& BUTTERY  
A PROFESSIONAL LAW CORPORATION

2-19

RECEIVED  
NOV 05 2004  
Planning & Bldg

November 3, 2004

PETER R. ANDRE (1918-2000)  
MICHAEL J. MORRIS  
JAMES C. BUTTERY  
DENNIS D. LAW  
J. TODD MIROLLA  
SCOTT W. WALL  
KATHRYN M. EPPRIGHT  
KEVIN D. MORRIS  
WILLIAM V. DOUGLASS  
JEAN A. ST. MARTIN  
LISA LaBARBERA TOKE  
MELISSA M. McGANN  
BETH A. MARINO  
JULIE CASEY MARTINEZ

2739 Santa Maria Way, Third floor  
Post Office Box 1430  
Santa Maria, CA 93456-1430

Telephone 805.937.1400  
Facsimile 805.937.1444

1102 Laurel Lane  
Post Office Box 730  
San Luis Obispo, CA 93406-0730

***Via Facsimile & U.S. Mail***

John Busselle  
Department of Planning and Building  
County of San Luis Obispo  
1050 Monterey Street, Room 310  
San Luis Obispo, CA 93408

**Re: 1460 Main Street, Cambria (Rod & Reel Trailer Park)**

Dear Mr. Busselle:

Thank you for meeting with me last week. I received your voice mail that records of mobile home purchases by the Connelys since February, 2002 could be sufficient for your review. However, I have also discussed with the Connelys what records they maintained during their ownership of the property that they acquired in 1977. I am pleased to report that they can document their acquisition of mobile homes back to 1977, and in fact, they purchased one coach when they purchased the real property.

As I explained in our meeting, the Connelys adopted a policy of acquiring coaches with the long term intention of phasing out the mobile home park. Slowly but surely they were able to acquire the coaches until February 28, 2003, when only one remained that was not owned by them. At that point, under state law the property was no longer a mobile home park, because it did not meet the definition of a mobile home park under *Civil Code* Section 798.4. Nonetheless, during the period of time that the Connelys were acquiring coaches, they would rent those that were habitable on a month-to-month basis. In addition recreational vehicles continued to use the property with stays limited to six (6) months or less. In the last year, however, nearly all of their tenants have vacated the property. People moved voluntarily for a variety of reasons. In fact, the last recreational vehicles vacated the property over the weekend.

At this point, the Connelys have nearly completed 'going out of business as a mobile home park.' While eight (8) coaches remain on site, there are only two human beings occupying the property at this time, in Unit #3; and they have given notice that they will be vacating by November 15<sup>th</sup>. Presently, it can be anticipated that the owners will apply to the State to revoke their license to operate the mobile home park in the next few months. However, requirements under State Law must be met to complete this formality. The Connelys have not prepared any plans and have no intention of developing the property. They only wish to sell it for a fair price;

2.20

John Busselle  
November 3, 2004  
Page 2

one that reflects their long term ownership of the property and their deliberate acquisition of coaches to the point that the site is no longer a mobile home park.

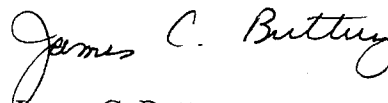
In support of this position, the Connelys' records disclose the following:

Date Acquired	Space #	Date Removed
1977	5	2002—January 16th
1980	13	Remains on site
1988	7	Remains on site
1994	12	Remains on site
1998	11	Remains on site
1998 Acquired at public auction	14	2001—January 14 <sup>th</sup> — salvaged to landfill
2002	17	Remains on site
2003—February 9th	3	Remains on site
2003—February 28 <sup>th</sup>	1	Remains on site

The Connelys respectfully request that you determine that the property does not constitute a mobile home park within the meaning of Coastal Land Use Ordinance Section 23.08.164(g), and further confirm that no development plan is required from them.

Please call me if you have any questions whatsoever.

Very truly yours,

  
James C. BATTERY

JCB/sf

cc: Tim McNulty (San Luis Obispo County Counsel)  
Ray and Carolyn Connely



2-21  
SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP  
DIRECTOR

December 17, 2004

Jim Buttery  
Andre Morris and Buttery  
1102 Laurel Lane  
P.O. Box 1430  
San Luis Obispo, Ca. 93406-0730

Re: Connelly's Rod and Reel Mobilehome Park

Dear Mr. Buttery:

Thank you for the letter dated November 3, 2004, clarifying the situation with the mobile home park. It appears that the Connelly's have planned on phasing out the park for many years and have moved in that direction by acquiring coaches from residents. As noted, their last acquisitions were in February of 2003. At that time only one owner occupied coach remained.

On my site visit to the property on December 8<sup>th</sup>, the park appeared unoccupied and was fenced at the street. From the street, I was able to count 7 remaining coaches. At this time it appears that no coaches or spaces are being rented. However, as your letter states, as recently as early February of 2003, three spaces were rented (two that were acquired and one that was never acquired) for mobile home units. Therefore, as recently as February of 2003, the park met the State definition of a mobile home park. In addition, it is my understanding from talking to representatives from the State Department of Housing and Community Development, that the site is registered as a mobile home park for 10 mobile homes.

The San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.08.164g, sets forth criteria for conversion of mobile home parks to other uses. If the property qualifies as a mobile home park, a Development Plan application must be filed with the county prior to any action to convert the park. Conversion includes requiring the tenants to move, and removing the units, even if no other use is planned.

It is clear from your letter that the property owner has intended to phase out the park. The ordinance is also clear that conversion of a mobile home park requires the filing of a Development Plan application with this department with the applicable reports as required by State law. Whether or not the site is currently a mobile home park by definition is arguable. However, as recently as early February of 2003, it was a park and the required application should have been filed prior to closure.

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I discussed the situation with members of our management staff. It is our view that the property is currently in violation of the Coastal Zone Land Use Ordinance Section 23.08.164g. This violation can be resolved by the filing of the appropriate application as previously noted. Applications for other uses or amendments to the general plan cannot be processed until the violation is resolved.

I would be happy to meet with you and discuss the application and contents of the required Tenant Impact Report. I am out of the office the week of December 20<sup>th</sup> and back on the 27<sup>th</sup>. I will need to have a person from our coastal team at the meeting since they will be processing any application.

If you have additional questions, please call me at 781-5154 or e-mail me at [jbusselle@co.slo.ca.us](mailto:jbusselle@co.slo.ca.us)

Sincerely,

A handwritten signature in black ink, appearing to read "John Busselle", with a long horizontal flourish extending to the right.

John Busselle  
Housing and Economic Development Section

C: Art Trinidad, Department of Planning and Building, Code Enforcement Division

ANDRE,  
MORRIS  
& BUTTERY

A PROFESSIONAL LAW CORPORATION

2-23

December 30, 2004

PETER R. ANDRE (1918-2000)  
MICHAEL J. MORRIS  
JAMES C. BUTTERY  
DENNIS D. LAW  
J. TODD MIROLA  
SCOTT W. WALL  
KATHRYN M. EPPRIGHT  
KEVIN D. MORRIS  
WILLIAM V. DOUGLASS  
JEAN A. ST. MARTIN  
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***Via Facsimile & U.S. Mail***

John Busselle  
Department of Planning and Building  
County of San Luis Obispo  
1194 Pacific Street  
San Luis Obispo, CA 93408

**Re: Rod & Reel Trailer Park**

Dear Mr. Busselle:

I am in receipt of your letter dated December 17<sup>th</sup> that with the speed of the Postal System was not delivered until December 23<sup>rd</sup>. Thank you for meeting with me on December 29<sup>th</sup> to discuss this matter further. I appreciate your candor and that of your colleague, Martha Neder.

As I explained, I believe that the County's position is based on a false premise. The subject ordinance, 23.08.164(g), does not on its face apply to this situation, because the property owners are not proposing "new use." Rather, they have been endeavoring to cease the use as a mobile home park. They simply want to go out of the mobile home business, and frankly the language of the ordinance does not reference "closure" nor does it reference "cessation of use." Absent a modification of the ordinance that clarifies its applicability to the "cessation of use" as a mobile home park, it is our position that the ordinance simply does not apply.

In fact your letter mentions that "conversion includes requiring tenants to move, and removing the units, even if no other use is planned." First, no mobile home owner was required to sell their coach. They voluntarily sold their coaches. Second, no mobile home owner was required to vacate from the property. They left voluntarily except for those who passed away. With regard to whether any tenants (including those who were renting a coach) were required to move, it is my understanding that even those people left voluntarily.

While you suggested strongly in our meeting that the property owner should submit a development plan application to cease the mobile home park use, as described above I pointed out that both the language of the Ordinance and the prior interpretation of the Ordinance by the Planning Department did not support this conclusion. Rather than spending time in front of the Planning Commission with an application that describes events that occurred literally years and

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John Busselle  
December 30, 2004  
Page 2

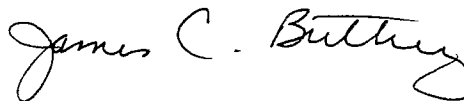
in some instances more than a decade ago, it would be more useful to spend that same time clarifying the language of the Ordinance. If the language of 23.08.164(g) was modified to define "change of use" to include "cessation of use" and "closure" of a mobilehome park, the public, including mobilehome park owners, would be clearly informed of the requirements that they must meet if they wished to discontinue their existing use.

I do want to make you aware of one unexpected change in circumstance that occurred since my letter dated November 3, 2004, was sent. Because of liability and insurance reasons, the property was fenced off, and for the same reasons a single tenant was installed. That tenant is in place at Space 16 and is the de facto caretaker of the property. Thus, while the tenant was placed for multiple reasons, it appears to me that there is no longer a "violation."

For the reasons I explained to you and as I have set forth in this letter, the Connelly's whole heartedly disagree with the County's position. It is not justified either factually or legally. They do not believe that there was, or is, a violation of Section 23.08.164(g) of your ordinance. My clients respectfully request that the Planning Department reconsider its decision as set forth in your letter of December 17<sup>th</sup>. It is my understanding that you will present this at your next meeting on January 5<sup>th</sup>.

Thank you for your time and your assistance in this matter.

Very truly yours,



James C. BATTERY

JCB/sf

cc: Ray and Carolyn Connelly  
Tim McNulty



2.25

*Attachment 3*  
Civil Code Section 798

**CIVIL CODE**  
**SECTION 798-798.14**

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798. This chapter shall be known and may be cited as the "Mobilehome Residency Law."

798.1. Unless the provisions or context otherwise requires, the following definitions shall govern the construction of this chapter.

798.2. "Management" means the owner of a mobilehome park or an agent or representative authorized to act on his behalf in connection with matters relating to a tenancy in the park.

798.3. (a) "Mobilehome" is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code. Mobilehome includes a manufactured home, as defined in Section 18007 of the Health and Safety Code, and a mobilehome, as defined in Section 18008 of the Health and Safety Code, but, except as provided in subdivision (b), does not include a recreational vehicle, as defined in Section 799.29 of this code and Section 18010 of the Health and Safety Code or a commercial coach as defined in Section 18001.8 of the Health and Safety Code.

(b) "Mobilehome," for purposes of this chapter, other than Section 798.73, also includes trailers and other recreational vehicles of all types defined in Section 18010 of the Health and Safety Code, other than motor homes, truck campers, and camping trailers, which are used for human habitation if the occupancy criteria of either paragraph (1) or (2), as follows, are met:

(1) The trailer or other recreational vehicle occupies a mobilehome site in the park, on November 15, 1992, under a rental agreement with a term of one month or longer, and the trailer or other recreational vehicle occupied a mobilehome site in the park prior to January 1, 1991.

(2) The trailer or other recreational vehicle occupies a mobilehome site in the park for nine or more continuous months commencing on or after November 15, 1992.

"Mobilehome" does not include a trailer or other recreational vehicle located in a recreational vehicle park subject to Chapter 2.6 (commencing with Section 799.20), except as otherwise provided in subdivision (b) of Section 799.45.

798.4. "Mobilehome park" is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

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798.6. "Park" is a manufactured housing community as defined in Section 18801 of the Health and Safety Code, or a mobilehome park.

798.7. "New Construction" means any newly constructed spaces initially held out for rent after January 1, 1990.

798.8. "Rental agreement" is an agreement between the management and the homeowner establishing the terms and conditions of a park tenancy. A lease is a rental agreement.

→ 798.9. "Homeowner" is a person who has a tenancy in a mobilehome park under a rental agreement.

798.10. "Change of use" means a use of the park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes used for human habitation, and does not mean the adoption, amendment, or repeal of a park rule or regulation. A change of use may affect an entire park or any portion thereof. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, planned unit development, or any form of ownership wherein spaces within the park are to be sold.

798.11. "Resident" is a homeowner or other person who lawfully occupies a mobilehome.

798.12. "Tenancy" is the right of a homeowner to the use of a site within a mobilehome park on which to locate, maintain, and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the park.

798.13. (a) This chapter does not apply to any area owned, operated, or maintained by the state for the purpose of providing employee housing or space for a mobilehome owned or occupied by an employee of the state.

(b) Notwithstanding subdivision (a), a state employer shall provide the occupant of a privately owned mobilehome that is situated in an employee housing area owned, operated, or maintained by the state, and that is occupied by a state employee by agreement with his or her state employer and subject to the terms and conditions of that state employment, with a minimum of 60-days' notice prior to terminating the tenancy for any reason.

2.28

798.14. Unless otherwise provided, all notices required by this chapter shall be either delivered personally to the homeowner or deposited in the United States mail, postage prepaid, addressed to the homeowner at his or her site within the mobilehome park.

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**CIVIL CODE**  
**SECTION 798.55-798.61**

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798.55. (a) The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.

(b) (1) The management may not terminate or refuse to renew a tenancy, except for a reason specified in this article and upon the giving of written notice to the homeowner, in the manner prescribed by Section 1162 of the Code of Civil Procedure, to sell or remove, at the homeowner's election, the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, as defined in Section 18005.8 of the Health and Safety Code, each junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner. The copy may be sent by regular mail or by certified or registered mail with return receipt requested, at the option of the management.

(2) The homeowner shall pay past due rent and utilities upon the sale of a mobilehome pursuant to paragraph (1).

(c) If the homeowner has not paid the rent due within three days after notice to the homeowner, and if the first notice was not sent by certified or registered mail with return receipt requested, a copy of the notice shall again be sent to the legal owner, each junior lienholder, and the registered owner, if other than the homeowner, by certified or registered mail with return receipt requested within 10 days after notice to the homeowner. Copies of the notice shall be addressed to the legal owner, each junior lienholder, and the registered owner at their addresses, as set forth in the registration card specified in Section 18091.5 of the Health and Safety Code.

(d) The resident of a mobilehome that remains in the mobilehome park after service of the notice to sell or remove the mobilehome shall continue to be subject to this chapter and the rules and regulations of the park, including rules regarding maintenance of the space.

(e) No lawful act by the management to enforce this chapter or the rules and regulations of the park may be deemed or construed to waive or otherwise affect the notice to remove the mobilehome.

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

(c) (1) Conviction of the homeowner or resident for prostitution, for a violation of subdivision (d) of Section 243, paragraph (2) of subdivision (a), or subdivision (b), of Section 245, Section 288, or Section 451, of the Penal Code, or a felony controlled substance

offense, if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner's mobilehome.

(2) However the tenancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the mobilehome.

(d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the homeowner. If the homeowner cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy. A three-day notice given pursuant to this subdivision shall contain the following provisions printed in at least 12-point boldface type at the top of the notice, with the appropriate number written in the blank:

"Warning: This notice is the (insert number) three-day notice for nonpayment of rent, utility charges, or other reasonable incidental services that has been served upon you in the last 12 months. Pursuant to Civil Code Section 798.56 (e) (5), if you have been given a three-day notice to either pay rent, utility charges, or other reasonable incidental services or to vacate your tenancy on three or more occasions within a 12-month period, management is not required to give you a further three-day period to pay rent or vacate the tenancy before your tenancy can be terminated."

(2) Payment by the homeowner prior to the expiration of the three-day notice period shall cure a default under this subdivision. If the homeowner does not pay prior to the expiration of the three-day notice period, the homeowner shall remain liable for all payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default

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under this subdivision with respect to that payment.

(4) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(5) If a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period and each notice includes the provisions specified in paragraph (1), no written three-day notice shall be required in the case of a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, as specified in paragraph (b) of Section 798.55, by certified or registered mail, return receipt requested, within 10 days after notice is sent to the homeowner.

(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:

(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.

(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.

(C) The legal owner, junior lienholder or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.

If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.

(f) Condemnation of the park.

→ (g) Change of use of the park or any portion thereof, provided:

(1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed homeowner written notice thereof prior to the inception of his or her tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed

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change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.

(i) For purposes of this section, "financial institution" means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.

798.56a. (a) Within 60 days after receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy pursuant to any reason provided in Section 798.56, the legal owner, if any, and each junior lienholder, if any, shall notify the management in writing of at least one of the following:

(1) Its offer to sell the obligation secured by the mobilehome to the management for the amount specified in its written offer. In that event, the management shall have 15 days following receipt of the offer to accept or reject the offer in writing. If the offer is rejected, the person or entity that made the offer shall have 10 days in which to exercise one of the other options contained in this section and shall notify management in writing of its choice.

(2) Its intention to foreclose on its security interest in the mobilehome.

(3) Its request that the management pursue the termination of tenancy against the homeowner and its offer to reimburse management for the reasonable attorney's fees and court costs incurred by the management in that action. If this request and offer are made, the legal owner, if any, or junior lienholder, if any, shall reimburse the management the amount of reasonable attorney's fees and court costs, as agreed upon by the management and the legal owner or junior lienholder, incurred by the management in an action to terminate the homeowner's tenancy, on or before the earlier of (A) the 60th calendar day following receipt of written notice from the management of the aggregate amount of those reasonable attorney's fees and costs or (B) the date the mobilehome is resold.

(b) A legal owner, if any, or junior lienholder, if any, may sell the mobilehome within the park to a third party and keep the mobilehome on the site within the mobilehome park until it is resold only if all of the following requirements are met:

(1) The legal owner, if any, or junior lienholder, if any, notifies management in writing of the intention to exercise either option described in paragraph (2) or (3) of subdivision (a) within 60 days following receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy and satisfies all of the responsibilities and liabilities of the homeowner owing to the management for the 90 days preceding the mailing of the notice of termination of tenancy and then continues to satisfy these responsibilities and liabilities as they accrue from the date of the mailing of that notice until the date the mobilehome is resold.

(2) Within 60 days following receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy, the legal owner or junior lienholder commences all repairs and necessary corrective actions so that the mobilehome complies with park rules and regulations in existence at the time the notice of termination of

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tenancy was given as well as the health and safety standards specified in Sections 18550, 18552, and 18605 of the Health and Safety Code, and completes these repairs and corrective actions within 90 calendar days of that notice, or before the date that the mobilehome is sold, whichever is earlier.

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(3) The legal owner, if any, or junior lienholder, if any, complies with the requirements of Article 7 (commencing with Section 798.70) as it relates to the transfer of the mobilehome to a third party.

(c) For purposes of subdivision (b), the "homeowner's responsibilities and liabilities" means all rents, utilities, reasonable maintenance charges of the mobilehome and its premises, and reasonable maintenance of the mobilehome and its premises pursuant to existing park rules and regulations.

(d) If the homeowner files for bankruptcy, the periods set forth in this section are tolled until the mobilehome is released from bankruptcy.

(e) Notwithstanding any other provision of law, including, but not limited to, Section 18099.5 of the Health and Safety Code, if neither the legal owner nor a junior lienholder notifies the management of its decision pursuant to subdivision (a) within the period allowed, or performs as agreed within 30 days, or if a registered owner of a mobilehome, that is not encumbered by a lien held by a legal owner or a junior lienholder, fails to comply with a notice of termination and is either legally evicted or vacates the premises, the management may either remove the mobilehome from the premises and place it in storage or store it on its site. In this case, notwithstanding any other provision of law, the management shall have a warehouseman's lien in accordance with Section 7209 of the Commercial Code against the mobilehome for the costs of dismantling and moving, if appropriate, as well as storage, that shall be superior to all other liens, except the lien provided for in Section 18116.1 of the Health and Safety Code, and may enforce the lien pursuant to Section 7210 of the Commercial Code either after the date of judgment in an unlawful detainer action or after the date the mobilehome is physically vacated by the resident, whichever occurs earlier. Upon completion of any sale to enforce the warehouseman's lien in accordance with Section 7210 of the Commercial Code, the management shall provide the purchaser at the sale with evidence of the sale, as shall be specified by the Department of Housing and Community Development, that shall, upon proper request by the purchaser of the mobilehome, register title to the mobilehome to this purchaser, whether or not there existed a legal owner or junior lienholder on this title to the mobilehome.

(f) All written notices required by this section shall be sent to the other party by certified or registered mail with return receipt requested.

(g) Satisfaction, pursuant to this section, of the homeowner's accrued or accruing responsibilities and liabilities shall not cure the default of the homeowner.

798.57. The management shall set forth in a notice of termination, the reason relied upon for the termination with specific facts to permit determination of the date, place, witnesses, and circumstances concerning that reason. Neither reference to the section number or a subdivision thereof, nor a recital of the language of this article will constitute compliance with this section.

798.58. Tenancy may only be terminated for reasons contained in Section 798.56, and a tenancy may not be terminated for the purpose

of making a homeowner's site available for a person who purchased or proposes to purchase, or rents or proposes to rent, a mobilehome from the owner of the park or the owner's agent.

2.34

798.59. A homeowner shall give written notice to the management of not less than 60 days before vacating his or her tenancy.

798.60. The provisions of this article shall not affect any rights or proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure except as otherwise provided herein.

798.61. (a) (1) As used in this section, "abandoned mobilehome" means a mobilehome about which all of the following are true:

(A) It is located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days.

(B) It is unoccupied.

(C) A reasonable person would believe it to be abandoned.

(2) For purposes of this section:

(A) "Mobilehome" shall include a trailer coach, as defined in Section 635 of the Vehicle Code, or a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, if the trailer coach or recreational vehicle also satisfies the requirements of paragraph (1), including being located on any site within a mobilehome park, even if the site is in a separate designated section pursuant to Section 18215 of the Health and Safety Code.

(B) "Abandoned mobilehome" shall include a mobilehome that is uninhabitable because of its total or partial destruction that cannot be rehabilitated, if the mobilehome also satisfies the requirements of paragraph (1).

(b) After determining a mobilehome in a mobilehome park to be an abandoned mobilehome, the management shall post a notice of belief of abandonment on the mobilehome for not less than 30 days, and shall deposit copies of the notice in the United States mail, postage prepaid, addressed to the homeowner at the last known address and to any known registered owner, if different from the homeowner, and to any known holder of a security interest in the abandoned mobilehome. This notice shall be mailed by registered or certified mail with a return receipt requested.

(c) Thirty or more days following posting pursuant to subdivision (b), the management may file a petition in the superior court in the county in which the mobilehome park is located, for a judicial declaration of abandonment of the mobilehome. A proceeding under this subdivision is a limited civil case. Copies of the petition shall be served upon the homeowner, any known registered owner, and any known person having a lien or security interest of record in the mobilehome by posting a copy on the mobilehome and mailing copies to those persons at their last known addresses by registered or certified mail with a return receipt requested in the United States mail, postage prepaid.

(d) (1) Hearing on the petition shall be given precedence over other matters on the court's calendar.

(2) If, at the hearing, the petitioner shows by a preponderance of the evidence that the criteria for an abandoned mobilehome has been satisfied and no party establishes an interest therein at the hearing, the court shall enter a judgment of abandonment, determine the amount of charges to which the petitioner is entitled, and award attorney's fees and costs to the petitioner. For purposes of this subdivision, an interest in the mobilehome shall be established by evidence of a right to possession of the mobilehome or a security or

ownership interest in the mobilehome.

(3) A default may be entered by the court clerk upon request of the petitioner, and a default judgment shall be thereupon entered, if no responsive pleading is filed within 15 days after service of the petition by mail.

(e) (1) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court.

(2) During this period the management shall post and mail notice of intent to sell the abandoned mobilehome and its contents under this section, and announcing the date of sale, in the same manner as provided for the notice of determination of abandonment under subdivision (b).

(3) At any time prior to the sale of a mobilehome under this section, any person having a right to possession of the mobilehome may recover and remove it from the premises upon payment to the management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court. Upon receipt of this payment and removal of the mobilehome from the premises pursuant to this paragraph, the management shall immediately file an acknowledgment of satisfaction of judgment pursuant to Section 724.030 of the Code of Civil Procedure.

(f) Following the judgment of abandonment, but not less than 10 days following the notice of sale specified in subdivision (e), the management may conduct a public sale of the abandoned mobilehome and its contents. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.

(g) Within 30 days of the date of the sale, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to subdivision (e).

(h) The management shall provide the purchaser at the sale with a copy of the judgment of abandonment and evidence of the sale, as shall be specified by the State Department of Housing and Community Development or the Department of Motor Vehicles, which shall register title in the abandoned mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the purchaser free of any prior interest, including any security interest or lien, except the lien provided for in Section 18116.1 of the Health and Safety Code, in the abandoned mobilehome.

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*Attachment 4*

Government code 65863.7

## GOVERNMENT CODE

PUD was inconsistent with general not require annexation and rezoning territory, and defeat of referendum zoning did not restore a previous but instead simply preserved the perty to continue as unincorporated. City of Pleasanton (App. 1 Dist. 875, 89 Cal.App.4th 1032. Zoning

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to approve referendum that would ning of property for a low density t development (PUD) was neither s; electorate did not change city's rty's land use designation to pre- of needed housing, and defeat of intained the status quo. Merritt v. p. 1 Dist. 2001) 107 Cal.Rptr.2d 675, Zoning And Planning ¶ 136

xercised its referendum power in measure that would have approved rty for a low density residential nent (PUD). Merritt v. City of ist. 2001) 107 Cal.Rptr.2d 675, 89 ing And Planning ¶ 136

housing needs; reduction of

or programs of adequate sites graph (1) of subdivision (c) of d pursuant to Section 65584,

i-judicial, or legislative action, y parcel to a lower residential t of Housing and Community 10.6 (commencing with Section written findings supported by

the housing element.

e to accommodate the jurisdic-

e remaining sites in the housing of the regional housing need t parcel if it identifies sufficient ial density in the jurisdiction so

w that may restrict or limit the

s in violation of this section, the using development, reasonable es in which the court finds that ourt finds that the action was 2007, and as of that date is no uary 1, 2007, deletes or extends

ely responsible for compliance ial application, as submitted, a ement not being adequate to ant to Section 65584. In that ant to comply with this section.

by asterisks \* \* \*

## GOVERNMENT CODE

2-37  
§ 65863.7

The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(g) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.

(Added by Stats.2002, c. 706 (A.B.2292), § 1. Amended by Stats.2004, c. 10 (A.B.1192), § 1, eff. Jan. 22, 2004.)

### Historical and Statutory Notes

#### 2004 Legislation

Stats.2004, c. 10 (A.B.1192), added subds. (f) and (g).

Section 2 of Stats.2004, c. 10 (A.B.1192), provides:

"SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution

and shall go into immediate effect. The facts constituting the necessity are:

"In order to provide housing for California residents and to clarify that local governments should not unnecessarily condition development projects, it is necessary that this act take effect immediately."

### § 65863.7. Mobilehome park; conversion, closure or cessation; impact report; notice to residents; hearing; bankruptcy exception; fees; application of section

(a) Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs.

(b) The person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

(c) When the impact report is filed prior to the closure or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at the same time as the notice of the change is provided to the residents pursuant to paragraph (2) of subdivision (f) of Section 798.56 of the Civil Code.

(d) When the impact report is filed prior to the closure or cessation of use, the person or entity filing the report or park resident may request, and shall have a right to, a hearing before the legislative body on the sufficiency of the report.

(e) The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation.

(f) If the closure or cessation of use of a mobilehome park results from an adjudication of bankruptcy, the provisions of this section shall not be applicable.

(g) The legislative body may establish reasonable fees pursuant to Section 66016 to cover any costs incurred by the local agency in implementing this section and Section 65863.8. Those fees shall be paid by the person or entity proposing the change in use.

(h) This section is applicable to charter cities.

(i) This section is applicable when the closure, cessation, or change of use is the result of a decision by a local governmental entity or planning agency not to renew a conditional use permit or zoning variance under which the mobilehome park has operated, or as a result of any other zoning or planning decision, action, or inaction. In this case, the local governmental agency is the person proposing the change in use for the purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e).

(j) This section is applicable when the closure, cessation, or change of use is the result of a decision by an enforcement agency, as defined in Section 18207 of the Health and Safety Code, to suspend the permit to operate the mobilehome park. In this case, the mobilehome park owner is the person proposing the

Additions or changes indicated by underline; deletions by asterisks \* \* \*

change in use for purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e).

(Added by Stats.1980, c. 879, p. 2760, § 2. Amended by Stats.1985, c. 1260, § 1; Stats.1986, c. 190, § 2, eff. June 25, 1986; Stats.1988, c. 171, § 2; Stats.1988, c. 910, § 2; Stats.1990, c. 1572 (A.B.3228), § 11; Stats.2004, c. 680 (A.B.2581), § 1.)

#### Historical and Statutory Notes

**2004 Legislation**  
Stats.2004, c. 680 (A.B.2581), added subd. (j).  
Section 2 of Stats.2004, c. 680 (A.B.2581), provides:  
"No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution

because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code."

#### Research References

##### Encyclopedias

- CA Jur. 3d Zoning and Other Land Controls § 133, in General; Governing Procedures-Under Statute.
- Cal. Civ. Prac. Real Property Litigation § 31:41, Change of Use of Park.
- Cal. Civ. Prac. Real Property Litigation § 31:53, Checklist of Additional Requirements for Termination of Tenancy Where Ground is Change in Use of Park.
- Cal. Civ. Prac. Real Property Litigation § 31:58, Notice by Management of Request for Change in Use of Mobilehome Park (Civ. Code § 798.56(G)(1)).

##### Treatises and Practice Aids

- Rutter, Cal. Practice Guide: Landlord-Tenant Ch. 5-I, I. Demolition Controls (Rental Removals to Go Out of Business).
- Rutter, Cal. Practice Guide: Landlord-Tenant Ch. 11-E, E. Termination of Mobilehome Tenancies.
- Miller and Starr California Real Estate § 31:31, Termination of Tenancies-Mobilehomes.
- Miller and Starr California Real Estate § 25:153, Local Agency Authority Under the Map Act.
- 4 Witkin Cal. Summ. 9th Real Property § 566, Acts or Powers of Entity Not Affected.

#### Notes of Decisions

##### Filing of report 2 Notice and reporting requirements 1

##### 1. Notice and reporting requirements

Mobilehome park owner must comply with notice and reporting requirements set forth in Government Code whenever there is change of use of entire park or functional portion thereof which results in displacement of tenants. *Keh v. Walters* (App. 6 Dist. 1997) 65 Cal. Rptr.2d 42, 55 Cal.App.4th 1522, rehearing denied, review denied. Landlord And Tenant ⇐ 393

At time of mobilehome park's proposed change of use, local ordinance required application and tenant impact report for any change which "could result in the loss of mobilehome park spaces" and fact that ordinance did not describe particular filing and review process at time park

owner first served notice of termination on tenants did not excuse owner's noncompliance with Government Code's requirements of application and impact report. *Keh v. Walters* (App. 6 Dist. 1997) 65 Cal.Rptr.2d 42, 55 Cal. App.4th 1522, rehearing denied, review denied. Landlord And Tenant ⇐ 390

##### 2. Filing of report

Sending copy of tenant impact report to city attorney marked for informational purposes did not constitute "filing" of report with local legislative body, required before any change of use of mobilehome park could occur; report which was simply sent to displaced residents with copy mailed to city attorney did not comply with Government Code. *Keh v. Walters* (App. 6 Dist. 1997) 65 Cal.Rptr.2d 42, 55 Cal.App.4th 1522, rehearing denied, review denied. Landlord And Tenant ⇐ 390

§ 65863.10. **Defined terms; notice of termination of subsidy contract or prepayment of governmental assistance or expiration of rental restrictions; exemptions; contents of notice; persons to receive notice; service of notice; compliance; injunctive relief**

*Text of section operative until July 1, 2005*

(a) As used in this section, the following terms have the following meaning:

(1) "Affected public entities" means the mayor of the city in which the assisted housing development is located, or, if located in an unincorporated area, the chair of the board of supervisors of the county; the appropriate local public housing authority, if any; and the Department of Housing and Community Development.

(2) "Affected tenant" means a tenant household residing in an assisted housing development, as defined in paragraph (3), at the time notice is required to be provided pursuant to this section, that benefits from the government assistance.

(3) "Assisted housing development" means a multifamily rental housing development that receives governmental assistance under any of the following federal programs:

**Additions or changes indicated by underline; deletions by asterisks \* \* \***

(A) New construction management set-aside p 8 of the United States H

(B) The following fed

(i) The Below-Market U.S.C. Sec. 1715l(d)(3) a

(ii) Section 236 of the

(iii) Section 202 of the

(C) Programs for ren ment Act of 1965, as am

(D) Programs under f

(E) Section 42 of the

(4) "City" means a ge

(5) "Expiration of re housing development de recorded agreements re

(6) "Prepayment" me mortgage indebtedness insurance, on an assisted have the effect of remov laws and the regulatory

(7) "Termination" me subsidy program for an either at or prior to the tenant rents or a change

(b)(1) At least 12 mo expiration of rental rest the termination or pre development in which t proposed change to each time the notice is provid Section 65863.13 shall be

(A) In the event of te or rental restrictions up

(B) In the event of the whether the owner inte Revenue Code.

(C) In the event of p federally insured or fe voluntarily cancel the m

(D) The anticipated di restrictions, and the ider

(E) A statement that affordability restrictions

(F) A statement of t proposed date of termin terms of the federal gove

(G) A statement that development at the time

(H) A statement that rents, if any, for the de termination of the subsid

(I) A statement of not

(2) Notwithstanding p termination of a subsidy

**Additions or**

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*Attachment 5*

Government code 65590

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§ 65589.8

PLANNING AND ZONING  
Title 7

requiring that any housing development contain a fixed percentage of affordable housing units.

(Added by Stats. 1983, c. 787, § 1.)

Library References

Constitutional Law ⇨228.3, 278.3.  
WESTLAW Topic No. 92.  
C.J.S. Constitutional Law §§ 936, 1270.

Article 10.7

LOW- AND MODERATE-INCOME HOUSING  
WITHIN THE COASTAL ZONE

Section

65590. Application of law; conversion or demolition; replacement; new housing developments; incentives; local coastal programs.

65590.1. Application of requirements of § 65590; time; proceedings.

*Heading of Article 10.7 was added by Stats.1982, c. 43, § 2, eff. Feb. 17, 1982.*

§ 65590. Application of law; conversion or demolition; replacement; new housing developments; incentives; local coastal programs

(a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirement of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or

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§ 65590

## LOCAL PLANNING

### Div. 1

family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision.

The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

(1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.

(2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resources Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code. However, the coastal-dependent or coastal-related use shall be consistent with the provisions of the land use plan portion of the local government's local coastal program which has been certified as provided in Section 30512 of the Public Resources Code. Examples of coastal-dependent or coastal-related uses include, but are not limited to, visitor-serving commercial or recreational facilities, coastal-dependent industry, or boating or harbor facilities.

(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.

(4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subdivision. As otherwise required by this subdivision, the replacement units shall, (i) be located within the coastal zone if feasible, or, if location within the coastal zone is not feasible, shall be located within three miles of the coastal zone, and (ii) shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition.

The requirements of this subdivision for replacement dwelling units shall not apply to the demolition of any residential structure which has been declared to

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PLANNING AND ZONING  
Title 7

be a public nuisance under the provisions of Division 13 (commencing with Section 17000) of the Health and Safety Code, or any local ordinance enacted pursuant to those provisions.

For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction.

(c) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location. If a local government makes this determination and authorizes the conversion or demolition of the residential structure, it shall require replacement of any dwelling units occupied by persons and families of low or moderate income pursuant to the applicable provisions of subdivision (b).

(d) New housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. Where it is not feasible to provide these housing units in a proposed new housing development, the local government shall require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof. In order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to, modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees.

(e) Any determination of the "feasibility" of an action required to be taken by this section shall be reviewable pursuant to the provisions of Section 1094.5 of the Code of Civil Procedure.

(f) The housing provisions of any local coastal program prepared and certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code prior to January 1, 1982, shall be deemed to satisfy all of the requirements of this section. Any change or alteration in those housing provisions made on or after January 1, 1982, shall be subject to all of the requirements of this section.

(g) As used in this section:

(1) "Conversion" means a change of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, or similar form of ownership; or a change of a residential

*findings and substantial evidence*

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~~dwelling, including a mobilehome, or a mobilehome lot in a mobilehome park, or a residential hotel to a nonresidential use.~~

(2) "Demolition" means the demolition of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, which has not been declared to be a public nuisance under Division 13 (commencing with Section 17000) of the Health and Safety Code or any local ordinance enacted pursuant to those provisions.

(3) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

(h) With respect to the requirements of Sections 65583 and 65584, compliance with the requirements of this section is not intended and shall not be construed as any of the following:

(1) A statutory interpretation or determination of the local government actions which may be necessary to comply with the requirements of those sections; except that compliance with this section shall be deemed to satisfy the requirements of paragraph (2) of subdivision (c) of Section 65583 for that portion of a local government's jurisdiction which is located within the coastal zone.

(2) A limitation on the program components which may be included in a housing element, or a requirement that a housing element be amended in order to incorporate within it any specific provision of this section or related policies. Any revision of a housing element pursuant to Section 65588 shall, however, take into account any low- or moderate-income housing which has been provided or required pursuant to this section.

(3) Except as otherwise specifically required by this section, a requirement that a local government adopt individual ordinances or programs in order to implement the requirements of this section.

(i) No provision of this section shall be construed as increasing or decreasing the authority of a local government to enact ordinances or to take any other action to ensure the continued affordability of housing.

(j) Local governments may impose fees upon persons subject to the provisions of this section to offset administrative costs incurred in order to comply with the requirements of this section.

(k) This section establishes minimum requirements for housing within the coastal zone for persons and families of low or moderate income. It is not intended and shall not be construed as a limitation or constraint on the authority or ability of a local government, as may otherwise be provided by law, to require or provide low- or moderate-income housing within the coastal zone which is in addition to the requirements of this section.

(Added by Stats.1981, c. 1007, § 1. Amended by Stats.1982, c. 43, § 3, eff. Feb. 17, 1982; Stats.1982, c. 1246, § 1.)